

Message Text

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ACTION EB-11

INFO OCT-01 ARA-11 ADP-00 AID-20 CIAE-00 FRB-02 INR-10

NSAE-00 RSC-01 TRSE-00 XMB-07 OPIC-12 CIEP-02 LAB-06

SIL-01 OMB-01 L-03 SS-15 NSC-10 H-02 PA-03 PRS-01

USIA-12 IGA-02 INT-08 STR-08 TAR-02 RSR-01 /152 W

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R 131810 Z APR 73

FM AMEMBASSY LA PAZ

TO SECSTATE WASHDC 9574

INFO USDOC WASHDC

AMEMBASSY LIMA

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SUBJ: INVESTMENT INFORMATION FOR THE FY 1974 FACT BOOK

REF: A-1975

BEGIN SUMMARY. THIS EMBASSY BELIEVES THAT A RECOGNIZABLE DIFFERENCE EXISTS BETWEEN THE ATTITUDE OF THE INCUMBENT GOVERNMENT REGARDING FOREIGN INVESTMENT AND THE LONG AND STILL LARGELY UNREPENTED BOLIVIAN TRADITION OF NATIONALIZATION OF INVESTMENTS, BE THEY FOREIGN OR DOMESTIC. THE FORMAL POSITION OF THE INCUMBENT GOVERNMENT IS THAT FOREIGN INVESTORS ARE TO BE ENCOURAGED AND SECOND-LEVEL GOB OFFICIALS SCURRY ABOUT LOOKING FOR INVESTORS. HOWEVER, IMPORTANT ELEMENTS WITHIN BOLIVIAN SOCIETY CONTINUE TO REGARD THE 1952 TIN NATIONALIZATIONS WITH PRIDE AND BY NO MEANS RULE OUT NATIONALIZATION AS A VIABLE MEANS TO ECONOMIC AND SOCIAL DEVELOPMENT. PRIVATE SECTOR ELEMENTS BELIEVE THERE IS A DISTINCT STATIST TENDENCY WITHIN THE PRESNT GOVERNMENT-- A TENDENCY WHICH THE BOLIVIAN ARMED FORCES LARGELY SUPPORT, HAVING RECENTLY LAUNCHED THE ARMED FORCES DEVELOPMENT CORPORATION. FINALLY, GIVEN THE PERVASIVE SENTIMENTS OF NATIONALISM AND DESIRES FOR A RAPID IMPORVEMENT IN LIVING STANDARDS OF THE AVERAGE MAN THAT EXIST IN BOLIVIA AS WELL AS MOST OF LATWN AMERICA, UNCLASSIFIED

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AN INVESTOR EYEING POSSIBILITIES IN THE EXTRACTIVE INDUSTRIES OR HIGHLY VISIBLE UTILITIES MUST BEAR IN MIND THAT, INEVITABLY, HE WILL WALK UPON THIN ICE. . END SUMMARY.

1. FORMALLY, BOLIVIA ISSUED AN INVESTMENT LAW IN DECEMBER 1971 (SEE LA PAZ A-243, OF DECEMBER 21, 1971) WHOSE FIRST ARTICLE AND TONE THROUGHOUT MAKES CLEAR THAT PRIVATE FOREIGN INVESTORS ARE TO BE TREATED THE SAME AS DOMESTIC INVESTORS. THE LAW GRANTS CONSIDERABLE CONCESSIONS TO NEW INVESTMENTS AND GUARANTEES, INTER ALIA, REPATRIATION OF CAPITAL AND PROFITS. THE MARCH 1972 HYDROCARBONS LAW (SEE LA PAZ A-85 OF APRIL 14, 1972) ALSO MAKES CLEAR THE GOVERNMENT'S INTENT TO ATTRACT FOREIGN RISK CAPITAL AND PROVIDES GUARANTEES SIMILAR TO THOSE IN THE INVESTMENT LAW. UNION OIL COMPANY OF CALIFORNIA HAS TAKEN ADVANTAGE OF THIS LAW (LA PAZ 1401), AND OTHER OIL COMPANIES MAY.

3. BOLIVIA IS, OF COURSE, A MEMBER OF THE ANDEAN GROUP. RESTRICTIONS ON FOREIGN INVESTMENT CONTAINED WITHIN OR RESULTANT FROM THE PACT HAVE BEEN EITHER POLITELY IGNORED OR CRITICIZED WITHIN GOVERNMENT CIRCLES TO DATE. ON THE OTHER HAND, THERE HAS BEEN VIRTUALLY NO FOREIGN DIRECT INVESTMENT INFLOW THAT WOULD PROVIDE A TEST OF THE GOVERNMENT'S INTENTIONS WITH REGARD TO THE ANDEAN FOREIGN INVESTMENT CODE (DECISION 24 AS AMENDED).

4. THE ONLY KNOWN LEGAL BARRIERS TO DIRECT FOREIGN INVESTMENT ARE: (1) UNDER THE HYDROCARBONS LAW, INVESTMENTS ARE LIMITED TO THOSE PERMITTED UNDER SERVICE AND OPERATIONS CONTRACTS; (2) FOREIGNERS MAY NOT REPEAT NOT OWN PROPERTY WITHIN 50 KILOMETERS OF BOLIVIA'S BORDERS; AND (3) THE PROVISIONS OF THE ANDEAN FOREIGN INVESTMENT CODE, THE FULL EFFECTS OF WHICH, BOLIVIAN ARE QUICK TO POINT OUT, WILL NOT APPLY FOR SOME TWENTY YEARS.

5. NATIONALIZATIONS BEGAN IN BOLIVIA ABOUT 1935, OCCURRED AGAIN IN THE EARLY 1950'S AND IN THE LATE 60'S AND EARLY 70'S. THE BANZER GOVERNMENT, WHICH HAS BEEN IN POWER 19 MONTHS (MORE THAN TWICE THIS COUNTRY'S AVERAGE GOVERNMENT LIFE) HAS SETTLED ALL CLEAR CASES OF NATIONALIZATION WITH DESPATCH AND GOOD WILL. NEVERTHELESS, THE EMBASSY BELIEVES THAT THE VAGARIES OF BOLIVIAN POLITICS ARE SUCH THAT RENEWED OFFICIAL RESPECTABILITY FOR NATIONALIZATION IS NOT UNTHINKABLE, PARTICULARLY IF THERE WERE TO BE A CHANGE IN GOVERNMENT. NOR SHOULD IT BE FORGOTTEN THAT SEVERAL OPTIONS WERE UNCLASSIFIED

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AVAILABLE TO THE BANZER GOVERNMENT TO SETTLE THE MINA MATILDE NATIONALIZATION: (1) REVERSE DECISION, RETURNING THE PROPERTY TO ITS FOREIGN OWNERS; (2) FORM A MIXED STADLE - FOREIGN PRIVATE CORPORATION (ACTIVELY EXPLORED OVER SEVERAL MONTHS); AND (3) PROCEED WITH NATIONALIZATION. THE GOB CHOSE (3), PAYING NEGOTIATED COMPENSATION. FEW ARE THE BOLIVIAN VOICES WHICH WILL SAY PUBLICLY FOR THE RECORD THAT NATIONALIZATION PER SE IS A BAD THING, AND FEWER STILL WHO EXPRESS DISTASTE WITH THE ANDEAN PACT LIMITATIONS ON FOREIGN INVESTMENT. NEVERTHELESS, THERE ARE SOME BOLIVIANS WHO GIVE PRIVATE ASSURANCES THAT THIS COUNTRY HAS HAD ITS FILL OF NATIONALIZATIONS.

6. THE GOB' S INSTITUTO NACIONAL DE INVERSIONES (INI) THE AGENCY WHICH ADMINISTERS THE INVESTMENT LAW, CONFIRMED OUR UNDERSTANDING THAT THERE IS NO REQUIREMENT IN LAW THAT AN INVESTOR PLACE HIMSELF SUBJECT TO THE INVESTMENTSLAW, ALTHOUGH IT IS CLEARLY IN HIS INTEREST TO DO SO. NOR IS THERE ANY REQUIREMENT IN LAW THAT AN INVESTOR SEEK OR OBTAIN APPROVAL OF HIS PLANS FROM THE CONSEJO NACIONAL DE ECONOMIA Y PLANIFICACION (NATIONAL PLANNING AND ECONOMIC CONTROL COUNCIL) OR THE CABINET.

7 WE BELIEVES THAT A POTENTIAL U. S. INVESTOR WOULD BE WELL ADVISED TO FORM HIS INVESTMENT CAREFULLY THROUGH SUCH DEVICES AS SERVICE AND/ OR OPERATIONS CONTRACTS, MIXED CORPORATIONS WITH PRIVATE BOLIVIANS AND/ OR

BOLIVIAN GOVERNMENT ENTITIES, NATIONALS OF OTHER ANDEAN PACT COUNTRIES

OR WITH THE CORPORACION ANDINA DE FOMENTO# ETC.
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INFO OCT-01 ARA-11 ADP-00 AID-20 CIAE-00 FRB-02 INR-10

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8. A MULTI- MILLION DOLLAR INVESTOR SHOULD, WE BELIEVE, NOT ONLY REGISTER HIS INVESTMENT WITH INI BUT ALSO OBTAIN ADVANCE CONCURRENCE FROM AT LEAST THE PLANNING COUNCIL.

9. IT IS A TRUISM, WHICH BOLIVIANS ARE MOST READY TO POINT OUT, THAT THE POTENTIAL WEALTH OF BOLIVIA IS VAST AND THE OPPORTUNITIES FOR INVESTORS ARE GREAT. WE AGREE, BUT ALSO FEEL THAT THE MEDIUM AND LONG TERM RISKS ARE SOMEWHAT HIGHER THAN IN MOZAT COUNTRIES.

10. PART II:. AS THE DEPARTMENT INDICATED IN THE REPAIR THAT STATISTICS ON DIRECT U. S. INVESTMENTS ARE AVAILABLE FROM " SURVEY OF CURRENT BUSINESS" SOURCES, THE EMBASSY REGARDS THIS ASPECT OF THE REPORTING REQUIREMENT AS SATISFIEBM MOREOVER, SOME ADDITIONAL AND CONTRIBUTORY DATA SHOULD BE AVAILABLE FROM THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

11. PART III: NO DATA IS AVAILABLE ON DIRECT INVESTMENT IN THE U. S. BY BOLIVIANS; SOME IS KNOWN TO EXIST IN THE FORM OF OWNERSHIP OF COMMON STOCK IN U. S. FIRMS. IN ADDITION, MANY BOLIVIANS, BOTH PRIVATE CITIZENS AND COMMERCIAL ESTABLISHMENTS, MAINTAIN U. S. BANK ACCOUNTS. THE EMBASSY ESTIMATES THIS TOTAL AT ABOUT \$ US 10 MILLION.

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12. PART IV: NO DATA IS AVAILABLE ON DIRECT INVESTMENT IN BOLIVIA BY THIRD COUNTRIES. THE EMBASSY ESTIMATES THAT THIS AMOUNT IS SMALL, NO EXCEEDING \$ US 10 MILLION, PRINCIPALLY JAPANESE.

13. THE EMBASSY WIL CONDUCT A SURVEY TO OBTAIN AN ESTIMATE OF U. S. AND THIRD COUNTRY INVESTMENT IN BOLIVIA TO SUPPLEMENT DATA AVAILABLE TO THE DEPARTMENT OF COMMERCE. ACCOMPLISHMENT OF THE SURVEY SHOULD REQUIRE ABOUT 90 DAYS.

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